

REMARKS

The present application was filed on May 26, 2006 with claims 1 through 41. Claims 5, 18, 25, and 29 were cancelled in the Amendment and Response to Office Action dated April 28, 2008. Claims 31-33 and 35-37 were cancelled in the Amendment After Final Rejection dated April 22, 2009. Claims 1-4, 6-17, 19-24, 26-28, 30, 34, and 38-41 are presently pending in the above-identified patent application. Claims 22 and 26 are proposed to be amended, claims 42-65 are proposed to be added, and claims 1-4, 6-17, 19-21, 30, 34, and 38-41 are proposed to be cancelled, without prejudice, herein.

In the Office Action, the Examiner rejected claims 1-4, 6-17, 19-24, 26-28, and 38-41 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, rejected claims 1-4, 6, 8-17, 19, 21 and 38-41 under 35 U.S.C. §103(a) as being unpatentable over Gardner et al. (United States Publication No. 2005/0233709) in view of Perahia et al. (United States Patent No. 7,352,688), rejected claims 7 and 20 under 35 U.S.C. §103(a) as being unpatentable over Gardner et al. in view of Perahia et al., and further in view of Kadous et al. (United States Publication No. 2004/0121730), and rejected claims 30 and 34 under 35 U.S.C. §103(a) as being unpatentable over Gardner et al. in view of Catreux et al. (United States Patent No. 6,802,035 B2). The Examiner indicated that claims 22-24 and 26-28 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. §112, second paragraph, set forth in the present Office Action.

Section 112 Rejections

Claims 1-4, 6-17, 19-24, 26-28, and 38-41 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1, 14, 22, 26, and 38, the Examiner asserts that the phrase “can be interpreted” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Applicants note that the phrase “can be interpreted” has been amended to “is capable of being interpreted” and thus the limitation(s) following the phrase are part of the claimed invention. Applicants therefore respectfully request that the section 112 rejections be withdrawn.

Independent Claims

The Examiner indicated that independent claims 22 and 26 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. §112, second paragraph, set forth in the present Office Action. Applicants note that the remaining pending claims, i.e.,  
5 claims 1-4, 6-17, 19-21, 30, 34, and 38-41, have been cancelled, without prejudice.

New Claims 42-65

New Claims 42-65 have been added to more particularly point out and distinctly claim various features of the invention, consistent with the scope of the originally filed specification, in order to give applicant the protection to which he is entitled. No new matter is  
10 introduced. Support for this material is set forth at pages 11-14 of the originally filed specification. The Examiner has previously considered the subject matter presented in new claims 42-65 in considering allowable claims 22-24 and 26-28. In particular, new independent claims 52 and 59 are directed to the corresponding transmitting method and transmitter for the receiving method and receiver of independent claims 22 and 26, respectively. Thus, new claims  
15 52 and 59 require transmitting an indication of a duration to defer until a subsequent transmission, said indication transmitted such that said indication is capable of being interpreted by a lower order receiver by diagonally loading a SIGNAL field across said plurality of transmit antennas. Applicants note that Gardner et al., Perahia et al., Kadous et al., and Catreux et al., alone or in combination, do not disclose or suggest transmitting an indication of a duration to  
20 defer until a subsequent transmission, said indication transmitted such that said indication is capable of being interpreted by a lower order receiver by diagonally loading a SIGNAL field across said plurality of transmit antennas, as required by new independent claims 52 and 59.

Furthermore, new dependent claims 42-46, 47-51, 53-58, and 60-65 are dependent on claims 22, 26, 52, and 59, respectively, and are therefore patentably distinguished over  
25 Gardner et al., Perahia et al., Kadous et al., and Catreux et al. (alone or in any combination) because of their dependency from independent claims 22, 26, 52, and 59 for the reasons set forth above, as well as other elements these claims add in combination to their base claim.

Allowance of claims 42-65 is believed to be warranted.

Conclusion

All of the pending claims following entry of the amendments, i.e., claims 22-24, 26-28, and 42-65, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions 5 for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,

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Date: February 9, 2010

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Kevin M. Mason  
Attorney for Applicant(s)  
Reg. No. 36,597  
Ryan, Mason & Lewis, LLP  
1300 Post Road, Suite 205  
Fairfield, CT 06824  
(203) 255-6560

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